

### **REMARKS**

Claims 6 and 8-12 are in the application with claim 6 being the only independent claim.

The Specification is objected pursuant to 35 U.S.C. 132 as having new matter introduced with the amendments submitted April 23, 2004. The amendments to the Specification submitted April 23, 2004 do not introduce new matter into the disclosure. The amendment to claim 6 was made in response to the 112 second paragraph rejection, see Office Action dated October 21, 2003. In fact, the Office Action states:

This recitation of each of the variable positions of SEQ ID NO: 12 is confusing because SEQ ID NO: 12 as defined in the sequence listing includes all of these variable positions and the different amino acid residues substituted at each position, thus the inclusion of this information additional in the claim is confusing.

See Office Action, October 21, 2004, page 4, lines 8-11.

The Amendment of April 21, 2004 to claim 6 simply deleted identification of the variable positions. Thus, as indicated by the remarks set forth in the Office Action of October 21, 2004, support for claim 6, SEQ ID NO: 12, is found in the application as filed, see Sequence Listing. Furthermore, as stated in the Specification as filed, the amino acid sequence of SEQ ID NO:12 is the consensus sequence obtained after aligning, using the Clustal method of alignment, the sequences of the invention, identifying the amino acids conserved among the plant sequences and those where more than one amino acid may be present. More specifically, support for the alignment is found on page 18, lines 15-17, support for the definition of consensus sequence is found on page 18, lines 20-24 and page 3, lines 1-10.

### **Claim Rejections**

#### **35 U.S.C. § 112, second paragraph**

Previous rejection under 35 U.S.C. § 112, second paragraph has been withdrawn.

#### **35 U.S.C. § 112, first paragraph**

As discussed above, no new matter was introduced to the disclosure when amending SEQ ID NO:12. The remarks set forth above in response to the objection pursuant to 35 U.S.C. 132 are incorporated herein by reference in their entirety. Removal of the 35 U.S.C. § 112, first paragraph rejection is kindly requested.

In view of the foregoing, allowance of the above-referenced application is respectfully requested.

Respectfully submitted,



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